

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **CV 85-4544-DMG (AGRx)** Date July 15, 2019

Title ***Jenny L. Flores, et al. v. William P. Barr, et al.*** Page 1 of 2

Present: The Honorable **DOLLY M. GEE, UNITED STATES DISTRICT JUDGE**

KANE TIEN
Deputy Clerk

NOT REPORTED
Court Reporter

Attorneys Present for Plaintiff(s)
None Present

Attorneys Present for Defendant(s)
None Present

Proceedings: IN CHAMBERS - ORDER RE PROVISION OF CLASS NOTICE FOR PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS' FEES [550]

On June 7, 2019, Plaintiffs filed a Motion for Award of Attorneys' Fees [Doc. # 550], which is scheduled for a hearing on August 2, 2019 at 9:30 a.m. [Doc. # 579.] On July 12, 2019, Defendants filed an Opposition. [Doc. # 597.] Plaintiff's optional Reply is currently due on July 19, 2019. *See* C.D. Cal. L.R. 7-10.

Although Federal Rule of Civil Procedure 23(h) appears to require that notice of Plaintiffs' Motion for Attorneys' Fees be "directed to class members in a reasonable manner" in order to afford them an opportunity to file objections before the Court issues a ruling thereon, Plaintiffs' filings do not include any proposal for providing such class notice. *See* Fed. R. Civ. P. 23(h)(1)–(2); *see also In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 954 (9th Cir. 2015) ("Federal Rule of Civil Procedure 23(h)(1) requires a claim for attorneys' fees to be made by motion under Rule 54(d)(2) and for '[n]otice of the motion [to] be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner.' . . . 'The plain text of [Rule 23(h)] requires that any class member be allowed an opportunity to object to the fee "motion" itself, not merely the preliminary notice that such a motion will be filed.'" (alteration in original) (citation omitted) (quoting *In re Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 988, 993–94 (9th Cir. 2010))); *Abels v. JB Legal Grp, P.C.*, 233 F.R.D. 645, 646 (N.D. Cal. 2006) (noting that class counsel could bring a post-judgment motion for fees, and that Rules 23(h) and 54(d)(2) "provide for a noticed motion, with the opportunity to be heard from the party to be charged or from any class member, or from both").

Accordingly, the Court **ORDERS** Plaintiffs to show cause why they should not be required to provide notice to the class in accordance with Rule 23(h) before the Court rules on their Motion. If Plaintiffs concede that Rule 23(h)'s notice requirements are applicable, then they shall meet and confer with Defendants and formulate a proposal for providing class notice. *See, e.g.,* Jt. Proposal re Notice to *Franco* Class Members at 1–3, *Jose Antonio Franco Gonzalez, et al. v. William P. Barr, et al.*, No. CV 10-2211-DMG (DTBx) (proposing a 30-day notice

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period for posted notices) [Doc. # 1035]. Plaintiffs' response to this Order or the parties' joint proposal shall be filed no later than **July 29, 2019**, and shall include a new proposed hearing date on Plaintiffs' motion, a new proposed deadline for Plaintiffs' Reply,¹ and be accompanied by a proposed order relating thereto.² The Court **VACATES** the August 2, 2019 hearing.

IT IS SO ORDERED.

¹ In order to afford Plaintiffs' counsel adequate time to respond to any objections, the proposed deadline for Plaintiffs' Reply shall be due after any applicable deadline for filing objections.

² A Word version of the proposed order shall be submitted to the Court in accordance with Local Rule 5-4.4.2.